

Public Accounts and Estimates Committee



Report on the Appointment
of Independent Auditors to Conduct
Financial and Performance Audits
of the Victorian Auditor-General's Office

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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

TWENTY FOURTH REPORT TO THE PARLIAMENT

**REPORT ON THE
APPOINTMENT OF INDEPENDENT AUDITORS
TO CONDUCT FINANCIAL AND PERFORMANCE AUDITS
OF THE VICTORIAN AUDITOR-GENERAL'S OFFICE**

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Duties of the Committee

The Public Accounts and Estimates Committee is constituted under the *Parliamentary Committees Act 1968*, as amended. It comprises nine members of the Parliament drawn from the Legislative Council and the Legislative Assembly.

The Committee carries out investigations and reports to Parliament on matters associated with State financial management. Its functions under the Act are to inquire into, consider and report to the Parliament on:

- (a) any proposal, matter or thing connected with public administration or public sector finances;
- (b) the annual estimates or receipts and payments and other Budget papers and any supplementary estimates of receipts and payments presented to the Assembly and the Council;

if the Committee is required or permitted so to do by or under the Act.

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Chapter 1: Introduction

Legislative Requirements

Pursuant to sections 17 to 19 of the *Audit Act* 1994, as amended, the Public Accounts and Estimates Committee is required to recommend to the Parliament the appointment of independent auditors to conduct:

- an annual financial audit of the Victorian Auditor-General's Office; and
- a performance audit of the Victorian Auditor-General at least once every three years.

The relevant sections of the Audit Act are attached as Appendix 1.

Selection Process

On 18 February 1998 the Committee sought submissions by tender by advertising in *The Financial Review* and *The Age* newspapers. The Committee also wrote to twenty-three major accounting firms, inviting proposals.

The Committee received three proposals for the financial audit and three proposals for the performance audit. The Committee was impressed with the quality of the submissions.

On 31 March 1998 the Sub-Committee on Audits interviewed representatives of all firms submitting proposals to discuss their audit methodology and strategy. The Sub-Committee would like to acknowledge the co-operation received from those who participated in these interviews.

As a result of recent amendments to the Audit Act, from 1 July 1998 all financial and performance audits of Victorian public sector bodies will be performed under contract to the Auditor-General. As a consequence of these changes, Audit Victoria has been established as a government business enterprise. These new arrangements will have a range of financial, resource and organisational implications for the Auditor-General's Office.

The fact that this year both audits will be undertaken during a period of significant transition for the Auditor-General's Office has been taken into account in selecting the auditor for the financial audit and in determining the scope of the performance audit.

Chapter 2: Financial Audit

Background

Section 17 of the *Audit Act* 1994, as amended, provides in part that:

- (1) *A person may be appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Parliamentary Committee of the Parliament¹, as an independent Auditor of the Victorian Auditor-General's Office.*
- (2) *An appointment –*
 - a) *must not be made for a period exceeding 3 years, but may be renewed;*
and
 - b) *may provide for the payment of remuneration.*
- (4) *The function of the independent auditor is to carry out audits of the Victorian Auditor-General's Office in accordance with this Part.*

Sections 17 and 18 do not explicitly state what the audit comprises. The Audit Act defines an audit as including an examination and inspection. The audit is intended to comprise an audit of the financial statements of the Victorian Auditor-General's Office and this is the basis on which the Committee has made a recommendation. Sections 17 and 18 also do not explicitly empower the Committee to give directions to the auditor or to determine the terms and conditions of the appointment, as is the case with the Committee's responsibilities under the same Act in respect of the appointment of the performance auditor of the Auditor-General.

Previous reports² of this Committee and its predecessor, have recommended that the Audit Act be amended to provide that the Public Accounts and Estimates Committee can give directions to the independent auditor in relation to the financial audit and to determine the terms and conditions of the appointment.

The Committee is disappointed that the recent review of the Audit Act did not take any action on this recommendation. The Committee reiterates its earlier advice and **recommends** that the Government include this provision when the Audit Act is next amended.

Previous Arrangements

For the past three financial years from 1994-95 to 1996-97, Mr Douglas N. Bartley, a partner of KPMG, has undertaken the financial audit of the Victorian Auditor-General's Office. In its Twentieth Report to the Parliament in May 1997, the Committee indicated it would call tenders for the next financial audit.

¹ In Section 3 of the Audit Act "Parliamentary Committee" is defined as the Public Accounts and Estimates Committee.

² Public Accounts and Estimates Committee, *Reports on the Appointment of an Auditor to Conduct a Financial Audit of the Victorian Auditor-General's Office*, dated April 1995, June 1996 and May 1997.

Financial Auditor's Role

The auditor's role will be to:

- conduct an audit of the Victorian Auditor-General's financial statements for the year ended 30 June 1998;
- form an opinion as to whether the financial statements of the Victorian Auditor-General's Office present fairly the financial position of the Office as at 30 June 1998 and the results of its operations and its cash flows for the financial year ended on that date in accordance with applicable accounting standards and other mandatory professional reporting requirements and comply with the requirements of the *Financial Management Act* 1994, as amended; and
- conduct the audit in compliance with the *Audit Act* 1994, as amended, and relevant auditing standards and statements.

Selection Criteria

In seeking to appoint the auditor, the Committee considered the following selection criteria. That the auditor should:

- be a member of a leading Australian or international organisation in the field of auditing and hold a prominent and respected position in the profession;
- have an appreciation of the role of the Auditor-General;
- have a general knowledge and understanding of the Victorian public sector's system of financial administration; and
- have sufficiently skilled and experienced staff to assist with the audit.

Recommended Appointment

After assessing each proposal against the selection criteria and clarifying with tenderers their audit methodology and approach, the Committee resolved to **recommend** the appointment of Mr Douglas N. Bartley of KPMG on the basis that:

- he is highly qualified and experienced in undertaking audits in both the private and public sectors;
- following the recent changes to the *Audit Act*, the Auditor-General's Office is in a transition phase to its new mandate and it would be advantageous to appoint an independent auditor who has an understanding of the financial operations of the Auditor-General's Office.

The Committee further **recommends** that Mr Bartley be appointed for three years, subject to negotiation on a suitable level of remuneration for future financial audits.

Recommendations

The Committee recommends:

Recommendation: 2.1 *That in accordance with section 17 of the Audit Act 1994 as amended:*

- (a) the Legislative Council and the Legislative Assembly appoint Mr Douglas N. Bartley of KPMG, in accordance with Appendix 2, to conduct the financial audit of the Victorian Auditor-General's Office for the 1997-98 financial year;*
- (b) the level of remuneration for the financial audit be \$10,250; and*
- (c) Mr Bartley be appointed for three years, subject to negotiation of a suitable level of remuneration for future financial audits.*

Recommendation: 2.2 *That the Audit Act be amended to provide that in relation to financial audits of the Auditor-General the Public Accounts and Estimates Committee can:*

- (a) give directions to the independent auditor appointed to undertake financial audits; and*
- (b) determine the terms and conditions of the appointment of the auditor.*

Chapter 3: Performance Audit

Background

The Audit Act requires that a performance audit of the Auditor-General be conducted at least once every three years. Under the Act, the Public Accounts and Estimates Committee is responsible for recommending the appointment of an auditor.

Section 19 of the *Audit Act* 1994 as amended, states in part that:

- (1) *An audit shall be conducted under this section at least once every 3 years to determine whether the Auditor-General is achieving his or her objectives effectively and doing so economically and efficiently and in compliance with this Act.*
- (2) *An audit under this section shall be conducted by an auditor appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Parliamentary Committee of the Parliament.*

Selection Criteria

In seeking to appoint the auditor, the Committee considered the following selection criteria. That the auditor:

- be a member of a leading Australian or international organisation in the fields of auditing and consulting (with an emphasis on performance evaluation) and hold a prominent and respected position in the profession;
- have an appreciation of the role of the Auditor-General;
- have knowledge and experience in the application of large scale audit project methodologies;
- have a general understanding of the nature of public sector organisations and the Victorian public sector's system of financial administration;
- have sufficiently skilled and experienced staff to assist with the audit; and
- not to be involved during the course of the audit with an audit examination or consultancy in a department or agency in respect of which the Auditor-General has a statutory responsibility so as to avoid a possible conflict of interest with the performance audit functions.

Scope of the Performance Audit and Recommended Terms and Conditions of the Appointment

Section 19 of the *Audit Act* 1994 as amended, states in part that:

- (3) *An auditor appointed under this section -*
 - (a) *shall be appointed on such terms and conditions and is entitled to such remuneration as are determined by the Parliamentary Committee of the Parliament; and*
 - (b) *in conducting the audit, must comply with directions as to the audit given by that Committee.*

Previous performance audits have been wide-ranging and have retrospectively reviewed all aspects of the Auditor-General's operations over a three year period.

Given the recent amendments to the Audit Act, the Committee proposes that new criteria should be applied to the conduct of this performance audit. The focus of the audit will be on the activities of the Auditor-General's Office as it prepares to operate as the key element in a contestable audit services regime. The Committee believes that feedback from these activities which will be of most relevance to the Parliament in determining whether the Auditor-General is achieving his objectives effectively, economically and efficiently and in compliance with the Audit Act.

The emphasis will be on assessing the ongoing effectiveness of the processes developed by the Auditor-General's Office in response to the changes in the role of the Office. The Committee is using this performance audit to add value during this transitional phase.

Ideally, the Committee would have preferred to delay the performance audit until the new arrangements had been in effect for some time. However, as the performance audit is required by legislation to be undertaken once every three years, and the last performance audit was undertaken as at 30 June 1995, the Committee has no flexibility in the timetable for this performance audit.

Directions

The Committee directs the Auditor to evaluate the following specific areas and issues:

Performance Management

- corporate, strategic and operational planning;
- performance management system, including benchmarking; and
- performance monitoring and reporting, including performance indicators.

Audit Approach – Financial and Special Reviews (Section 15)

- audit methodology;
- auditing standards, practices and techniques; and
- quality control and assurance.

Audit Approach – Performance Audits (Section 16)

- audit methodology;
- auditing standards, practices and techniques; and
- quality control and assurance.

Communicating Audit Findings

- reporting strategies;
- reporting standards; and
- effectiveness of reporting techniques.

Client satisfaction and auditee feedback and comments

- standards of service provided to the Parliament and to the community; and
- feedback from agencies subject to audit, and executive government.

Private sector contracting

- letting of contracts;
- contract management;
- performance monitoring; and
- quality control and assurance.

Resources (Financial, Staffing and Information Technology)

- financial management;
- information technology; and
- human resources.

New operational requirements

- capacity of the Auditor-General to undertake the Review of Ministerial Portfolios and the Report on the Statement of Financial Operations; and
- examination of the contestable market available and able to undertake performance audits.

The Committee further *directs* the Auditor to:

- (a) conduct the audit in compliance with the *Audit Act* 1994, as amended; and
- (b) conduct the audit in compliance with Statement of Auditing Practice AUP 33 'Performance Auditing', and other relevant Auditing Standards and Statements.

The report of the performance audit should:

- (a) specify the performance measures and benchmarks (both qualitative and quantitative) against which the Victorian Auditor-General's Office was measured and assessed;
- (b) provide an opinion on the Victorian Auditor-General's Office's compliance with Australian auditing and accounting standards;
- (c) detail conclusions and include clear recommendations capable of implementation to effect improvement where deemed possible/desirable; and
- (d) provide an overall opinion as to whether the Victorian Auditor-General's Office is achieving its objectives effectively, economically and efficiently and in compliance with the *Audit Act* 1994, as amended.

Timing of the Report

The Auditor shall make his report in accordance with the Act by, or before 15 September 1998, or such later date as the Committee may direct, and within seven sitting days after making the report, must transmit the report to the Legislative Assembly and the Legislative Council.

Level of Remuneration

The Committee has determined that the remuneration for the performance audit will be \$49,700.

Recommended Appointment

After reviewing all proposals received and conducting interviews, the Committee resolved to recommend the appointment of Mr Stuart Alford of Ernst & Young to conduct the performance audit of the Auditor-General.

Mr Alford, a practicing audit partner with Ernst & Young, is also Chairman of the Auditing Standards Board and was formerly the Australian representative on the International Auditing Practices Committee of the International Federation of Accountants. Since 1997 he has been Chairman of the Joint Assurance Services Task Force which has been appointed by Accounting Bodies to advise on future directions of the profession. He is also a member of the Australian Accounting Research Foundation Board of Management.

Mr Alford will be assisted by a specialist team, including Mr Tom Sheridan a former South Australian Auditor-General, with extensive experience and understanding of the Victorian public sector, performance and financial auditing, information technology issues, management issues, market contestability issues and the Auditor-General's environment.

Recommendations

The Committee recommends:

Recommendation 3.1: That, in accordance with section 19 of the Audit Act 1994, as amended the Legislative Council and the Legislative Assembly appoint Mr Stuart Alford of Ernst & Young, in accordance with Appendix 3, to conduct the performance audit of the Victorian Auditor-General's Office.

Recommendation: 3.2 The level of remuneration for the performance audit be \$49,700.

Appendix 1**EXTRACT FROM THE *AUDIT ACT 1994, AS AMENDED*****17. *Independent auditor to audit Victorian Auditor-General's Office***

- (1) A person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Parliamentary Committee³ of the Parliament, as an independent auditor of the Victorian Auditor-General's Office.
- (2) An Appointment -
 - (a) must not be made for a period exceeding 3 years, but may be renewed; and
 - (b) may provide for the payment of remuneration.
- (3) Remuneration payable under the appointment shall be paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.
- (4) The function of the independent auditor is to carry out audits of the Victorian Auditor-General's Office in accordance with this Part.
- (5) Subject to any directions given by the Parliamentary Committee of the Parliament, sections 11, 12, and 14 apply in relation to the independent auditor as if references in those sections to the Auditor-General were references to the independent auditor.

18. *Report of independent auditor*

- (1) The independent auditor may make a report on an audit carried out under section 17.
- (2) A report under sub-section (1) may include such information and such recommendations as the independent auditor thinks fit for the more effective, efficient and economic operation of the Victorian Auditor-General's Office.
- (3) The independent auditor must not make a report of an audit under this section unless -
 - (a) at least 10 days before making the report, the independent auditor -
 - (i) has given the Auditor-General a copy of the report or a summary of the findings and proposed recommendations; and
 - (ii) has, in writing, asked the Auditor-General for submissions or comments before a specified date, being at least 7 days after the report is given to the Auditor-General;
 - (b) has included in the report any submissions or comment received, before the specified date, from the Auditor-General or a summary, in an agreed form, of any such submissions or comment.

³ In Section 3 "Parliamentary Committee" is defined as the Public Accounts and Estimates Committee.

- (4) The independent auditor must, within 7 sitting days after making the report, transmit the report to each House of Parliament.

19. Performance Audit of the Victorian Auditor-General's Office

- (1) An audit shall be conducted under this section at least once every 3 years to determine whether the Auditor-General is achieving his or her objectives effectively and doing so economically and efficiently and in compliance with this Act.
- (2) An audit under this section shall be conducted by an auditor appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Parliamentary Committee.
- (3) An auditor appointed under this section –
- (a) shall be appointed on such terms and conditions and is entitled to such remuneration as are determined by the Parliamentary Committee; and
 - (b) in conducting the audit, must comply with directions as to the audit given by that Committee.
- (4) The remuneration payable to an auditor appointed under this section shall be paid from money appropriated to the Parliament.
- (5) Subject to any directions given by the Parliamentary Committee, sections 11, 12 and 14 apply in relation to an auditor appointed under this section as if references in those sections to the Auditor-General were references to the auditor appointed under this section.
- (6) An auditor appointed under this section must not make a report of an audit under this section unless –
- (a) at least 28 days before making the report, the auditor has given the Auditor-General a summary of findings and proposed recommendations in relation to the audit; and
 - (b) has, in writing, asked the Auditor-General for submission or comment before a specified date, being at least 14 days after the report is given to the Auditor-General.
- (7) The auditor must include in the report of an audit under this section any submissions or comment received, before the report is made, from the Auditor-General or a summary, in an agreed form, of any such submissions or comment.
- (8) The auditor, in a report of an audit under this section –
- (a) may include such information as he or she thinks desirable in relation to matters that are the subject of the audit; and
 - (b) must set out the reasons for opinions expressed in the report; and
 - (c) may include any recommendation arising out of the audit as he or she thinks fit to make.
- (9) The auditor must cause a copy of the report to be transmitted to each House of Parliament within 7 sitting days of that House after making the report.

Appendix 2

**APPOINTMENT AND REMUNERATION OF AN AUDITOR
PURSUANT TO SECTION 17 OF THE *AUDIT ACT* 1994,
AS AMENDED, AS RECOMMENDED BY THE
PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE**

WHEREAS

- A. An independent auditor shall carry out audits of the Victorian Auditor-General's Office in accordance with sections 17 and 18 of the *Audit Act* 1994, as amended.
- B. Mr Douglas N. Bartley is appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, to conduct the Audit.

DEFINITIONS

- 1. In this document unless otherwise specified or unless the context otherwise requires:
 - 1.1 "Act" means the *Audit Act* 1994, as amended.
 - 1.2 "Committee" means the Public Accounts and Estimates Committee.
 - 1.3 "Liaison Officer" means the Executive Officer of the Committee.
 - 1.4 "Auditor" means Mr Douglas N. Bartley.
 - 1.5 "Audit" means an audit as described in sections 17 and 18 of the *Audit Act* 1994, as amended.
 - 1.6 "Office" means the Victorian Auditor-General's Office.

APPOINTMENT

- 2. The Auditor shall:
 - 2.1 conduct an independent audit of the Office, being an audit of the Office's financial statements, for the year ended 30 June 1998;
 - 2.2 form an opinion as to whether the financial statements of the Office present fairly the financial position of the Office as at 30 June 1998 and the results of its operations and its cash flows for the financial year ended on that date in accordance with applicable accounting standards and other mandatory professional reporting requirements and comply with the requirements of the *Financial Management Act* 1994, as amended;
 - 2.3 furnish his opinion (refer part 2.2) to the Office for inclusion with the Office's annual report to the Parliament under the provisions of the *Financial Management Act* 1994, as amended;

- 2.4 conduct the audit in compliance with the *Audit Act* 1994, as amended; and
- 2.5 conduct the audit in compliance with relevant Auditing Standards and Statements.
3. Section 18 of the Act provides that the Auditor may make a report. The Auditor must, within seven sitting days after making a report in accordance with the Act, transmit the report to the Legislative Assembly and the Legislative Council.
4. The Auditor shall liaise with the Liaison Officer as reasonably required by the Liaison Officer during the period of the audit.
5. All documents (other than working papers) prepared pursuant to the audit and all documents supplied to the Auditor for the purpose of the audit (excluding those documents returned to the originating source) shall be and remain the property of the Victorian Parliament and shall be delivered by the Auditor to the Committee upon the completion of the audit. The Committee will keep the documents delivered by the Auditor to the Committee for a period of at least seven years and provide the Auditor, or his representative, with access to such documents as is appropriate.

All working papers are to be made available to future Auditors.

The documents supplied to the Auditor pursuant to the audit shall not without the prior approval of the Committee be used, copied or reproduced for any purpose other than for the execution of the work contained in the audit.

6. The Auditor shall not without the prior written approval of the Committee disclose to any person any material obtained or produced during the course of the audit.
7. The Auditor warrants that, at the date of this document, no conflict of interest exists or is likely to arise in the performance of his obligations under the audit. If, during the term of the audit, a conflict or risk of conflict of interest arises, the Auditor undertakes to notify the Committee immediately in writing of that conflict or risk.
8. Pursuant to section 17 of the Act, sections 11, 12, and 14 of the Act apply to the Auditor as if references in those sections to the Auditor-General were references to the Auditor.
9. Copyright of all documents developed or produced by the Auditor pursuant to the audit shall vest in the Crown in right of the State of Victoria.
10. The Auditor is an independent contractor and the personnel employed or engaged by him shall not by virtue of this document become or be deemed to have become employed by or in the service of the State for the purpose of the Income Tax or Income Tax Assessment Acts and the Accident Compensation Act or for any other purpose.
11. The Auditor releases and shall indemnify the State, its officers and employees from and against liability for or in respect of any physical injury to persons (including death) or damage to property in so far as the injury or damage is

attributable to any negligent or unlawful action of the Auditor in the course of carrying out the audit.

12. If either the Committee or the Auditor is rendered unable to carry out the whole or any part of this audit by any reason beyond its control including, but not limited to, acts of God, acts of governments or governmental authorities, strikes or riots and any other causes of like nature, then the performance of such obligations as are effected by such cause, shall be excused during the continuance or any inability, so caused. Save that this part shall not excuse the State from its obligations to pay fees to the Auditor as they become due.
13. If any provision of this document is held invalid, unenforceable, or illegal for any reason, this document remains otherwise in full force, apart from such provision which is deemed deleted.
14. By resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Committee, the Legislative Council and the Legislative Assembly at any time giving written notice to the Auditor of its intention so to do may abrogate or constrict this audit or any part of or further part thereof and upon such notice being given the Auditor shall cease or reduce work according to the notice and shall forthwith do everything possible to mitigate the losses consequent thereto.

In the event the Auditor may submit a claim for compensation for such sums as are fair and reasonable in respect of the loss or damage sustained by the Auditor in unavoidable circumstances provided always the Auditor shall not be entitled for the loss of prospective profits.

REMUNERATION

15. The amount to be paid to the Auditor for all work done in undertaking the audit shall be **ten thousand two hundred and fifty dollars** (\$10,250). This amount shall be paid on transmission of the financial statements of the Office for the year ended 30 June 1998, including a report of the Auditor detailing his opinion on those financial statements, to the Legislative Assembly and the Legislative Council or, if earlier, on transmission of the Auditor's report to the Legislative Assembly and the Legislative Council.

The Auditor warrants to meet all expenses incurred during the audit without any further recourse to the Parliament of Victoria.

Appendix 3

TERMS AND CONDITIONS, AND REMUNERATION, OF AN AUDITOR APPOINTED PURSUANT TO SECTION 19 OF THE AUDIT ACT 1994 AS AMENDED, AS DETERMINED BY THE PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

WHEREAS

- A. An audit shall be conducted to determine whether the Auditor-General is achieving his objectives effectively and doing so economically and efficiently and in compliance with the *Audit Act* 1994, as amended.
- B. Mr Stuart Alford is appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, to conduct the audit.

DEFINITIONS

1. In this document unless otherwise specified or unless the context otherwise requires:
 - 1.1 “Act” means the *Audit Act* 1994, as amended.
 - 1.2 “Committee” means the Public Accounts and Estimates Committee.
 - 1.3 “Liaison Officer” means the Executive Officer of the Committee.
 - 1.4 “Auditor” means Mr Stuart Alford.
 - 1.5 “Audit” means a performance audit as described in section 19 of the *Audit Act* 1994, as amended.
 - 1.6 “Office” means the Victorian Auditor-General’s Office.

DIRECTIONS

2. The Committee hereby *directs* the Auditor to evaluate the following specific areas and issues:
 - 2.1 *Performance Management*
 - corporate, strategic and operational planning;
 - performance management system, including benchmarking; and
 - performance monitoring and reporting, including performance indicators.
 - 2.2 *Audit Approach – Financial and Special Reviews (Section 15)*
 - audit methodology;
 - auditing standards, practices and techniques; and
 - quality control and assurance.

2.3 *Audit Approach – Performance Audits (Section 16)*

- audit methodology;
- auditing standards, practices and techniques; and
- quality control and assurance.

2.4 *Communicating Audit Findings*

- reporting strategies;
- reporting standards; and
- effectiveness of reporting techniques.

2.5 *Client satisfaction and auditee feedback and comments*

- standards of service provided to the Parliament and to the community; and
- feedback from agencies subject to audit, and executive government.

2.6 *Private sector contracting*

- letting of contracts;
- contract management;
- performance monitoring; and
- quality control and assurance.

2.7 *Resources (Financial, Staffing and Information Technology)*

- financial management;
- information technology; and
- human resources.

2.8 *New operational requirements*

- capacity of the Auditor-General to undertake the Review of Ministerial Portfolios and the Report on the Statement of Financial Operations; and
- examination of the contestable market available and able to undertake performance audits.

3. The Committee further *directs* the Auditor to:

- 3.1 conduct the audit in compliance with the *Audit Act* 1994, as amended; and
- 3.2 conduct the audit in compliance with Statement of Auditing Practice AUP 33 ‘Performance Auditing’, and other relevant Auditing Standards and Statements.

4. The report of the performance audit should:

- 4.1 specify the performance measures and benchmarks (both qualitative and quantitative) against which the Victorian Auditor-General’s Office was measured and assessed;
- 4.2 provide an opinion on the Victorian Auditor-General’s Office’s compliance with Australian auditing and accounting standards;

- 4.3 detail conclusions and include clear recommendations capable of implementation to effect improvement where deemed possible/desirable; and
- 4.4 provide an overall opinion as to whether the Victorian Auditor-General's Office is achieving its objectives effectively, economically and efficiently and in compliance with the *Audit Act* 1994, as amended.

TERMS AND CONDITIONS

5. The Auditor is appointed on the following terms and conditions -

5.1 Timetable for Reports:

The Auditor shall deliver to the Chairman of the Committee –

- a proposed audit plan on 13 May 1998; and
- a statement as to progress on 30 June 1998; and
- a statement as to progress on 31 July 1998.

These statements shall exclude any findings or proposed recommendations in relation to the audit.

The Auditor shall present and review the preliminary report with the Auditor-General and the Public Accounts and Estimates Committee on or before 14 August 1998.

The Auditor shall present his report in accordance with the Act by, or before 15 September 1998, or such later date as the Committee may direct, and within seven sitting days after making the report, must transmit the report to the Legislative Assembly and the Legislative Council.

The Auditor shall be available to provide advice to the Committee on the report, after the report has been transmitted to the Legislative Assembly and the Legislative Council, as required by the Committee.

5.2 Liaison

The Auditor shall liaise with the Liaison Officer as reasonably required by the Liaison Officer during the period of the audit. The Liaison Officer shall make herself available as reasonably required by the Auditor during the period of the audit.

5.3 Documents

All documents (other than working papers) prepared pursuant to the audit and all documents supplied to the Auditor for the purpose of the audit (excluding those documents returned to the originating source) shall be and remain the property of the Victorian Parliament and shall be delivered by the Auditor to the Committee upon the completion of the audit.

All working papers are to be made available to future auditors.

The documents supplied to the Auditor pursuant to the audit shall not without the prior approval of the Committee be used, copied or reproduced

for any purpose other than for the execution of the work contained in the audit.

5.4 Disclosure of information

The Auditor shall not without the prior written approval of the Committee disclose to any person any material obtained or produced during the course of the audit.

5.5 Compliance with Acts

The Auditor shall ensure that in carrying out the audit he shall comply with the requirements of the provisions of all Acts of the Parliament of the Commonwealth and with the requirements of the provisions of all Acts of the Parliament of Victoria and with the requirements of all ordinances, regulations, by-laws, orders and proclamations made or issued under any such Acts or Ordinances and with the lawful requirements of public and other authorities in any way affecting or applicable to the audit.

5.6 Conflict of Interest

The Auditor warrants that, at the date of this document, no conflict of interest exists or is likely to arise in the performance of his obligations under the audit. If, during the term of the audit, a conflict or risk of conflict of interest arises, the Auditor undertakes to notify the Committee immediately in writing of that conflict or risk.

5.7 Resourcing

The Auditor warrants that he will personally perform no less than 31 per cent of workdays spent on the audit. The Auditor will be assisted by Mr Balcombe (who will personally perform no less than 25 per cent of tendered workdays), Mr Sheridan (who will personally perform no less than 17 per cent of tendered workdays), Mr Rohan, Mr Keser and other such support staff as required. The Committee may direct changes to the team assisting the Auditor, or the extent of involvement of team members in the audit.

5.8 Application of Act

Pursuant to section 19 of the Act, sections 11, 12, and 14 of the Act apply to the Auditor as if references in those sections to the Auditor-General were references to the Auditor.

5.9 Copyright

Copyright of all documents developed or produced by the Auditor pursuant to the audit shall vest in the Crown in right of the State of Victoria.

5.10 Independent Contractor

The Auditor is an independent contractor and the personnel employed or engaged by him shall not by virtue of this document become or be deemed to have become employed by or in the service of the State for the purpose of the Income Tax or Income Tax Assessment Acts and the Accident Compensation Act or for any other purpose.

5.11 Release and Indemnity

The Auditor releases and shall indemnify the State, its officers and employees from and against liability for or in respect of any physical injury to persons (including death) or damage to property in so far as the injury or damage is attributable to any negligent or unlawful action of the Auditor in the course of carrying out the audit.

5.12 Force Majeure

If either the Committee or the Auditor is rendered unable to carry out the whole or any part of this audit by any reason beyond its control including, but not limited to, acts of God, acts of governments or governmental authorities, strikes or riots and any other causes of like nature, then the performance of such obligations as are effected by such cause, shall be excused during the continuance or any inability so caused. Save that this part shall not excuse the State from its obligations to pay fees to the Auditor as they become due.

5.13 Severability

If any provision of this document is held invalid, unenforceable, or illegal for any reason, this document remains otherwise in full force, apart from such provision which is deemed deleted.

5.14 Termination

By resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Committee, the Legislative Council and Legislative Assembly at any time giving written notice to the Auditor of its intention so to do may abrogate or constrict this audit or any part of or further part thereof and upon such notice being given the Auditor shall cease or reduce work according to the notice and shall forthwith do everything possible to mitigate the losses consequent thereto.

In the event the Auditor may submit a claim for compensation for such sums as are fair and reasonable in respect of the loss or damage sustained by the Auditor in unavoidable circumstances provided always the Auditor shall not be entitled for the loss of prospective profits.

REMUNERATION

6. The amount to be paid to the Auditor for all work done in undertaking the audit shall be **forty nine thousand and seven hundred dollars** (\$49,700.00) which shall be paid in the following manner:

- 6.1 seven thousand and five hundred dollars (\$7,500.00) on delivery of a satisfactory statement as to progress being presented to the Chairman of the Committee on 30 June 1998;
- 6.2 twenty four thousand and nine hundred dollars (\$24,900.00) on delivery of a satisfactory statement as to progress, which indicates delivery of a draft report to the Auditor-General and to the Committee, being presented to the Chairman of the Committee on 14 August 1998;
- 6.3 seventeen thousand and three hundred dollars (\$17,300.00) on transmission of the Auditor's report to the Legislative Assembly and the Legislative Council.

The Auditor warrants to meet all expenses incurred during the audit without any further recourse to the Parliament of Victoria.

Appendix 4

ORGANISATIONS SUBMITTING PROPOSALS FOR FINANCIAL AUDIT

Deloitte Touche Tohmatsu

Hall Chadwick

KPMG

**ORGANISATIONS SUBMITTING PROPOSALS FOR PERFORMANCE
AUDIT**

Deloitte Touche Tohmatsu

Ernst & Young

Hall Chadwick